IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 6387 of 2007(S)

OA.410/2005 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
.....

PETITIONERS:
---

1. UNION OF INDIA, REPRESENTED BY THE
GENERAL MANAGER, SOUTHERN RAILWAY
PARK TOWN POST, CHENNAI-600 003.

2. THE DIVISIONAL RAILWAY MANAGER,
SOUTHERN RAILWAY, PALAKKAD DIVISION,
PALAKKAD.

3. THE SENIOR DIVISIONAL RAILWAY MANAGER,
SOUTHERN RIALWAY, PALAKKAD DIVISION,
PALAKKAD.

4. THE DIVISIONAL SIGNAL &
TELECOMMUNICATION ENGINEER (WORKS)
SOUTHERN RAILWAY, PODANUR,
COIMBATORE DISTRICT, TAMIL NADU.

BY ADV. SRI.T.P.M.IBRAHIM KHAN,SR.SC, RAILWAYS

RESPONDENT:

M. SETHURAMAN, S/O.SHRI.A. MANICKAM,
ELECTRICAL SIGNAL MAINTAINER GR.I.,
SOUTHERN RAILWAY, ERODE, RESIDING AT POYYUR
VILLAGE, KARUPPUR SENAPATHI POST,
ARIYALUR TALUK, PERUMBALLOOR DISTRICT,
TAMIL NADU.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C).NO.6387 OF 2007

Dated this the 26th day of February,2007.

JUDGMENT

Koshy, J.

Respondent approached Central Administrative Tribunal for a declaration that he is entitled to be treated as Temporary with effect from 23.9.1967, for the purpose of pension and other retirement benefits. It is not disputed that if a person who was casually employed for six months in continuous service will get temporary status for the purpose of calculating pensionary benefits. But the above benefit is not applicable in the case of casual employees employed in mere project works. The respondent was casually appointed on 25.6.1967 as casual labourer on the roles of Divisional Signal and Telecommunication Engineer (Works) (DSTE), which is a non project permanent establishment of the Railway. He continued his service without any break. He was regular in service as flagman and he was promoted from time to time and retired from service on 30.9.2002. It is not a project work as held in various cases by Central Administrative Tribunal and affirmed by this court. Considering the above, Tribunal granted following reliefs in Ext.P3.

> 17. "In view of the above, the C.A is allowed. The applicant is entitled to count his past service rendered by him as casual labour during 1967 to 1978 for the

purpose of pension but the same is subject to the following conditions:-

(a) That the applicant refunds the extent of gratuity drawn by him to the department on their demand.

(b) That the extent of period of causal service as claimed by the applicant should be proved buy him with necessary documentary evidences. If he fails to prove so, the department is entitled to work out the same on the basis of the documents held by them and consider the same as the service as casual labour rendered by the applicant and on the basis of the same the respondents shall work out the qualifying period.

once the qualifying period is worked out, the same shall be added to the already available qualifying service of the applicant and his terminal benefits and pension shall be worked out and the difference in terminal benefits and pension shall be paid to the applicant".

We see no patent illegality or perverse finding so as to attract Article 227 of Constitution of India. Hence we dispose the Writ Petition.

J.B.KOSHY, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

bkn